



Crl.A.(MD).No.328 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 24.05.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

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Vishal

... Appellant /Petitioner/ Accused No.5

Vs.

1.State through

The Deputy Superintendent of Police,
Sivagangai.

2.State Through,

The Inspector of Police,
Devakottai Taluk Police Station,
Sivagangai District.

(Crime No.61 of 2024)

... 1st & 2nd Respondents /1st & 2nd Respondents
/Investigation Officer and Complainant

3.Vivek

... 3rd Respondent/3rd Respondent/
De-facto Complainant

PRAYER : Criminal Appeal filed under Section 14 A (2) of SC/ST (Prevention of Atrocities) Act, 1989 as amended by Act 1/2016, to call for the entire records relating to the order dated 03.04.2024 made in Cr.M.P.No.781 of 2024 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai and to set aside the same as arbitrary and consequently to release the appellant on bail in connection with the FIR in Crime No.61 of 2024 on the file of the 2nd respondent police.



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For Appellant : Mr.S.Vijayakumar
For R1 & R2 : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)

JUDGMENT

This Criminal Appeal has been filed to set aside the order dated 03.04.2024 made in Cr.M.P.No.781 of 2024 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai and to set aside the same as arbitrary and consequently to release the appellant on bail in connection with the FIR in Crime No.61 of 2024 on the file of the 2nd respondent police.

2. According to the prosecution, the appellant and other accused persons said to have committed the offences under Sections 147, 148, 294(b), 342, 324, 355, 506(ii) of IPC and Sections 3(1)(r), 3(1)(s) of SC/ST (POA) Amendment Act, 1989.

3.The case of the prosecution is that the third respondent herein / the defacto complainant is a driver belongs to the Hindu Schedule Caste Community. On 01.03.2024, the Goat belongs to the defacto complainant's father had entered into one Rasu's house and had ate the rice. The wife of Rasu has scolded the defacto complainant's father by using their caste name. When the defacto complainant questioned the same, a wordy quarrel arose between them and the relatives of the Rasu had confined the defacto complainant, assaulted him by hands and iron rod,

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foot wear and dishonoured him. In this incident, the defacto complainant sustained injuries. Hence, the *de-facto* complainant lodged a complaint before the respondent police and the case has been registered in Crime No.61 of 2024 against the appellant and other accused persons for the offences under Sections 147, 148, 294(b), 342, 324, 355, 506(ii) of IPC and Sections 3(1)(r), 3(1)(s) of SC/ST (POA) Amendment Act, 1989. Therefore, the appellant has filed a petition for bail in Cr.M.P.No.781 of 2024, before the learned Sessions Judge, Special Court for Trial of cases under SC/ST (PoA) Act, Sivagangai and the same was dismissed on 03.04.2024. Challenging the same, the appellant has preferred this Criminal Appeal.

4. The learned counsel for the appellant would submit that the appellant is an innocent and he has been falsely implicated in this case. He would further submit that the appellant is the fifth accused and he has been wrongly implicated in this case. The appellant was arrested and remanded on 03.03.2024 and he is in judicial custody for the past 82 days in **(*)Central Prison, Madurai**. He is also ready to abide by any condition imposed by this Court and hence, he seeks to grant bail to the appellant.

5. The learned Additional Public Prosecutor appearing for the State would submit that totally there are seven accused in this case and the appellant herein arrayed as Accused No.5 and all of them are still in custody. He would further



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submit that if the appellant is ordered to be released on bail, stringent conditions may be imposed.

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6. The present appellant came up before this Court earlier and this Court has declined to grant bail for the sole reason that except the present appellant, other accused were not arrested. Now there is a change of circumstances that other accused were arrested. Notice was also issued to the defacto complainant and he was also present before this Court on earlier occasion and has objected for grant of bail only for the first accused (A1).

7. Considering the above facts and circumstances and also considering the period of incarceration, this Court is inclined to allow the Criminal Appeal by setting aside the order, 03.04.2024 made in Cr.M.P.No.781 of 2024 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai.

8. Accordingly, this Criminal Appeal is allowed and the order 03.04.2024 made in Cr.M.P.No.781 of 2024 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai, is set aside. The appellant is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Learned Sessions Judge, Special Court for Trial of



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SC/ST (POA) Act Cases, Sivagangai, and on further conditions that:

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(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Court for Trial of SC/ST (POA) Act Cases, Sivagangai, may obtain a copy of their valid identity card to ensure their identity.

(b) the appellant shall appear before the learned Special Judge, daily at 10.30 a.m., until further orders, except on hearing dates.

(c) the appellant shall not tamper with evidence or witnesses, during investigation or trial.

(d) the appellant shall co-operate with the investigation.

(e) On breach of any of the aforesaid conditions, the learned Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.



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(f) If the accused thereafter absconds, a fresh FIR can be registered under

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Section 229-A IPC.

Sd/-

Vacation Officer(C.S.I)

(*)Corrected as per order of this Court Dated 30/05/2024 and made in Crl.MP. 5479/2024 in Crl.A.No.328/2024

Sd/-

Vacation Officer()

// True Copy //

/06/2024

Sub Assistant Registrar
(CS- I/ II / III / IV)

pnn

To

To be substituted to the order already despatched on 24/05/2024

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989,
Sivagangai.

2.The Superintendent, Central Prison, Madurai.

3.The Officer Incharge, District Jail, Ramanathapuram.

4.The Deputy Superintendent of Police, Sivagangai.

5.The Inspector of Police, Devakottai Taluk Police Station,
Sivagangai District.

<https://www.judiciary.gov.in/> 6.The Additional Public Prosecutor,



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Madurai Bench of Madras High Court, Madurai.

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7.The Section Officer, Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+3 CC to M/s.S.VIJAYAKUMAR, Advocate (SR-24630[F] dated 27/05/2024 &
SR-5856[I] dated 24/05/2024 & SR-5980[I] dated 30/05/2024)

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MGJ(24.05.2024) 7P 11C

RS(05.06.2024) 7P 12C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023